

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

LINDA FAIRSTEIN,)
)
Plaintiff,)
) Case No. 20-cv-00180
v.)
)
NETFLIX, INC., AVA DUVERNAY, and)
ATTICA LOCKE,)
)
Defendants.)
)

**DEFENDANT NETFLIX INC.'S NOTICE OF WITHDRAWAL
OF SPECIAL MOTION TO STRIKE
PURSUANT TO CALIFORNIA ANTI-SLAPP ACT**

Defendant Netflix, Inc. (“Netflix”), by its undersigned counsel, hereby withdraws its Special Motion to Strike the Complaint of Plaintiff Fairstein pursuant to the California anti-SLAPP Act, California Code of Civil Procedure (“C.C.P.”) § 425.16 (“Special Motion”) (ECF No. 30).

Netflix acknowledged in its Special Motion to Strike that the Eleventh Circuit in *Carbone v. Cable News Network, Inc.*, 910 F.3d 1345 (11th Cir. 2018) held that state anti-SLAPP statutes could not be entertained in federal court, and that Netflix was filing the Special Motion to preserve its right to raise the anti-SLAPP statute in the Southern District of New York (SDNY), given Netflix’s motion to dismiss or transfer under 28 U.S.C. § 1406 and/or § 1404, because courts in the SDNY have applied state anti-SLAPP laws and the Second Circuit had, at the time of filing, expressly left that question open. (ECF No. 30, Special Motion at 3 n. 2.)

On July 15, 2020, the Second Circuit issued an opinion in *La Liberte v. Reid*, No. 19-3574, 2020 WL 3980223 (2d Cir. July 15, 2020) answering that open question and holding, for the first time, that California’s anti-SLAPP statute does not apply in federal court. In view of the *La Liberte* decision, Netflix withdraws its Special Motion to Strike.

Dated: July 29, 2020

Respectfully submitted,

/s/ Natalie J. Spears

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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of July, 2020 a copy of the foregoing was filed electronically via the ECF filing system.

/s/ Natalie J. Spears
